
FYI-200

New Mexico
Taxation and Revenue Department

FOR YOUR INFORMATION

Tax Information/Policy Office ♦ P.O. Box 630 ♦ Santa Fe, New Mexico 87504-0630

YOUR BUSINESS LOCATION and THE APPROPRIATE TAX RATE

Unlike most states, New Mexico does not impose a sales tax based on the point of delivery of the goods sold. Instead, New Mexico imposes a tax on the gross receipts of the seller or lessor, the person engaging in business. The business location of the seller or lessor determines the rate of the Gross Receipts Tax (GRT). This FYI discusses how to determine your business reporting location and the importance of reporting correctly and using the correct tax rate.

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This information is as accurate as possible at the time of publication. Subsequent legislation, new state rulings and court decisions may affect its accuracy. For the latest information please check the taxation and revenue department's web site at www.tax.state.nm.us.

HOW THE GROSS RECEIPTS TAX SYSTEM WORKS

New Mexico's gross receipts tax system is a joint effort of the state and its individual counties and municipalities. The state sets a gross receipts tax rate (currently 5.125%). To the state rate counties and municipalities may add various local option gross receipts taxes. The total rate in an unincorporated area may include levies by the state and the county. In cities the rate may include levies by the state, county and municipal governments.

The Taxation and Revenue Department collects local option gross receipts taxes and related taxes from businesses. It then distributes proportionate shares to municipalities and counties to fund such essential services in the local jurisdiction as police and fire protection, hospitals, health care facilities, and waste management. This is why businesses must enter their business location when completing the CRS-1 Form and paying the gross receipts tax. Gross receipts tax is a major source of revenue for most counties and municipalities. It is vital for local governments to have dependable sources of revenue.

REPORTING REQUIREMENTS

The gross receipts tax and local option gross receipts taxes are reported and paid on CRS-1 Forms included in the CRS-1 Filer's Kit or online through CRS-WebFile (go to www.tax.state.nm.us. Choose "E-Services" on the Information Menu, and then "Electronic Tax Services"). On the CRS-1 Form report your business location(s) in Column A, special codes in Column B, your business location code(s) in Column C, total gross receipts in Column D, deductible receipts in Column E, taxable gross receipts in Column F and the gross receipts tax rate in effect at your business location(s) in Column G. Location codes and current gross receipts tax rates appear in the gross receipts tax rate schedule in your CRS-1 Filer's Kit.

The Department updates and distributes the CRS-1 Filer's Kit twice yearly to registered CRS taxpayers who file a paper return. The combined gross receipts tax rate can change on January 1 and July 1 of each year, so it is important to check the gross receipts tax rate schedule for new rates. The latest gross receipts tax rate schedules are on the Department's home page at www.tax.state.nm.us, under "New Mexico Tax Rates."

The most recent printer-friendly versions of the CRS-1 Filer's Kit are also on the TRD home page. Check the margin at the lower left of the home page.

Following is a guideline for determining your business reporting location based on your business location and the type of business you conduct. You may wish to use this guideline and the gross receipts tax rate schedule simultaneously.

DETERMINING YOUR BUSINESS REPORTING LOCATION

BASED ON THE GEOGRAPHICAL LOCATION OF YOUR BUSINESS

You Have Multiple Sites in New Mexico

Your business reporting location is at each site where you have a business. Use the corresponding GRT rates and location codes. For sites outside a municipality, but not on municipally owned land, use the "Remainder of County" rate and corresponding location code.

Contact your local municipal or county zoning office if you are not sure whether you are within municipal limits.

Your client provides space for your business or your employees

You establish a business location at the client's facility when your business occupies the space for six consecutive months or more, your client expects you or your employees to be available at that location at prescribed times, and you perform, manage or coordinate critical elements of your service from the client's location. Use the location code for your client's business. Regulation 3.1.4.13(G) NMAC sets out explicit indicia for client-provided space.

You are located on municipally owned land outside city boundaries

Your business location is that of the municipally owned land (identified on the gross receipts tax rate schedule). Please refer to the gross receipts tax rate schedule for the correct codes and current rates.

You are out of state, but you have one or more New Mexico locations

Your business reporting locations are each New Mexico site where you have a business -- that is, a store, office, warehouse or showroom, or the New Mexico location of your resident sales personnel. Use the corresponding GRT rates and location codes. If you also do business in New Mexico from your out-of-state location, show those gross receipts using the special location code 88-888 (or 77-777 for research and development services) and the GRT rate of 5.125%.

You are out of state with no New Mexico locations

Your business location is out of state. Use the special location code 88-888. If your business is research and development services and you have nexus (sufficient connection) to New Mexico, use the special location code 77-777. Both codes have a GRT rate of 5.125%.

Note: In all cases, if you have more than one store, office, warehouse, or showroom in one jurisdiction, consolidate the activities from all these places under one location code; for example, if you have two stores and one warehouse in Albuquerque, report the gross receipts from all three on one line of the CRS-1 Form using the location code and tax rate for Albuquerque.

You are located out of state with no New Mexico locations, but you have service technicians* or nonresident sales personnel in New Mexico, or you use your own vehicles for deliveries in New Mexico

Your business location is out of state. Use the out-of-state location code of 88-888.

*A "service technician" is an employee whose primary work responsibility is the repair, servicing and maintenance of the products sold or serviced by the employer and whose sales activities are at most incidental.

You are located out of state with no New Mexico locations, but you have New Mexico resident sales personnel

Your business location is the residence(s) of the sales personnel. Use the corresponding GRT rates and location codes.

BASED ON YOUR TYPE OF BUSINESS

You are an itinerant peddler

An "itinerant peddler" is a person who sells from a non-reserved location chosen for temporary

periods on a first-come, first-served basis. An itinerant peddler does no advertising or soliciting, has no one employed to sell, and is not employed as a salesperson. Please see the category immediately below. If you are an itinerant peddler, your business reporting location is your residence. Use the corresponding GRT rate and location code.

You have a temporary business location

If you pay a fee to occupy a particular location or space for a determined period of time, or if you advertise in advance that you will be at a particular location for a specified period of time, you are not an itinerant peddler. You have a temporary business location instead. Use that location as your business reporting location and use the corresponding GRT rate and location code.

You sell utilities or telephone services

Your business location is the location of the meter used to record the amount of service the customer consumes, or the location of the telephone. For cellular telephone service ("commercial mobile radio service"), your business location is the customer's billing address or, if the billing address is a post office box or mail drop, the location is the residence/business facility address. Use the corresponding GRT rates and location codes. If you are subject to the Interstate Telecommunications Gross Receipts Tax, please see publication FYI-403, INTERSTATE TELECOMMUNICATIONS.

You provide general services

Your business location is your business reporting location regardless of where you perform the services. Use the corresponding GRT rate and location code.

You provide construction services

Your business reporting location is the location of each construction site. Use the corresponding GRT rates and location codes. All phases of a construction project are considered a service, including materials that become components of the completed project. If you are not sure of the construction site's location -- especially with state or federal installations -- contact the project owner or the local municipal or county zoning office.

You lease tangible personal property for use in New Mexico

Your business location is the business reporting location regardless of where in New Mexico the items are actually used. Use the corresponding GRT rate and location code.

You sell real estate

Your business reporting location is the location of the property sold, not the location of the real estate company's office. Use the corresponding GRT rate and location code. If you arrange for the *lease* of real property, use the GRT rate and location code for your business location, not the rate and code for the location of the leased property.

You provide transportation services

Your reporting location is your business location, but adjustments to the local option tax rates may apply. See publication FYI-290, INFORMATION FOR THE TRANSPORTATION INDUSTRY.

You transact business with tribal non-members on tribal territory

Use the tribal location of the sale or delivery rather than your business location if that tribe, nation or pueblo has entered into a cooperative agreement with New Mexico. Evidence that a tribe, nation or pueblo had entered into a cooperative agreement is a separate location listing on the Gross Receipts Tax Rate Schedule. If you are transacting business with a tribe, nation or pueblo that has not entered into a cooperative agreement with New Mexico, use the GRT rate and location code for your normal business location.

TAXPAYER INFORMATION

The Department offers a variety of taxpayer information. Some information is free and other information must be purchased.

General Information. FYIs and Bulletins present general information with a minimum of technical language. All FYIs and Bulletins are free and available through all local tax offices, the Tax Information and Policy Office, and on the Internet. The Taxation and Revenue Department's Internet address is:

<http://www.tax.state.nm.us>

Regulations. The Department establishes regulations to interpret and exemplify the various tax acts it administers. The Taxation and Revenue Department regulation book is available from the New Mexico Compilation Commission on a prepaid basis. The Compilation Commission also has a compact disk of all statutes and regulations. Specific regulations are also available at the State Records Center or on its web page at www.nmcpr.state.nm.us/nmac.

Order regulation books directly from:

New Mexico Compilation Commission

<http://www.nmcompcomm.us/index.html>

Rulings. Rulings signed by the Secretary and approved by the Attorney General are written statements that apply to one or a small number of taxpayers. A taxpayer may request a ruling (at no charge) to clarify its tax liability or responsibility under specific circumstances. The request for a ruling must be in writing, include accurate taxpayer identification and the details about the taxpayer's situation, and be addressed to the Secretary of the Taxation and Revenue Department at P.O. Box 630, Santa Fe, NM 87504-0630. The taxpayer's representative, such as an accountant or attorney, may request a ruling on behalf of the taxpayer but must disclose the name of the taxpayer. While the department is not required to issue a ruling when requested to do so, every request is carefully considered.

The department will not issue a ruling to a taxpayer who is undergoing an audit, who has an outstanding assessment, or who is involved in a protest or litigation with the department over the subject matter of the request. The Secretary may modify or withdraw any previously issued ruling and is required to withdraw or modify any ruling when subsequent legislation, regulations, final court decisions or other rulings invalidate a ruling or portions of a ruling. Taxation and Revenue Department rulings are compiled and available on the department's web page free of charge at www.tax.state.nm.us. Click on "publications."

Public Decisions & Orders. All public decisions and orders issued by the hearing officers since July 1994 are compiled and available on the department's web page free of charge at www.tax.state.nm.us. Click on "publications."

FOR FURTHER ASSISTANCE

Local tax offices can provide full service and information about the department's taxes, programs, and forms as well as specific information about your filing situation.

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LAS CRUCES (575) 524-6225

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SANTA FE (505) 827-0951

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This publication provides general information. It does not constitute a regulation, ruling, or decision issued by the Secretary of the New Mexico Taxation and Revenue Department. The Department is legally bound only by a regulation or a ruling [7-1-60, New Mexico Statutes Annotated, 1978]. In the event of a conflict between FYI and statute, regulation, case law or policy, the information in FYIs is overridden by statutes, regulations and case law. Taxpayers and preparers are responsible for being aware of New Mexico tax laws and rules. Consult the Department directly if you have questions or concerns about information provided in this FYI.